

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

D. Schirmer

Protest

45

9074

FILE: B-193038, B-192992

DATE: February 8, 1979

MATTER OF: Metal Art, Inc.

DLG 826

**DIGEST:**

*[Protest Alleging Improprieties in Solicitations Considered Untimely]*

1. Protests filed after closing date for receipt of proposals which challenge propriety of solicitations (failure to include specifications or drawings) are untimely filed under Bid Protest Procedures and not for consideration on merits.
2. Agency's delay in filing report on protests does not provide basis for waiving timeliness rules applicable to filing bid protests.
3. Significant issue exception to bid protest timeliness rules is not applicable to protests concerning nonavailability of specifications and drawings. X

Metal Art, Inc. (Metal Art), protests the award of contracts under requests for proposals (RFP) DLA700-78-R-2083 and -2084 issued by the Defense Construction Supply Center, Directorate of Procurement & Production, issued on August 22, 1978.

Counsel for Metal Art states that Metal Art could not submit a proposal because no specifications or drawings were available. The protests were sent by certified mail on September 20, 1978, and were filed in our Office on September 25, 1978. The closing date for receipt of proposals was September 21, 1978.

Our Bid Protest Procedures, 4 C.F.R. § 20.2 (1978), provide in pertinent part:

003557

*[Handwritten signature]*

"(b)(1) Protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening or the closing date for receipt of initial proposals shall be filed prior to bid opening or the closing date for receipt of initial proposals. \* \* \*

\* \* \* \* \*

"(3) \* \* \* any protest received in the General Accounting Office after the time limits prescribed in this section shall not be considered unless it was sent by registered or certified mail not later than the fifth day, \* \* \* prior to the final date for filing a protest as specified herein. \* \* \*

Since the protests involve alleged improprieties in the solicitations which were apparent prior to the closing date, and they were not sent by certified mail not later than the fifth day prior to the closing date, they were untimely filed.

Counsel for the protester contends that the contracting officer is estopped from raising the timeliness issue because his report to our Office on the protests was late. However, the agency delay did not cause the protests to be late because the agency delay occurred after the protests were untimely filed. Also, our Bid Protest Procedures provide objective criteria for application by this Office to all protests before us and may not be waived by the actions of a contracting officer. See Annapolis Tennis Limited Partnership, B-189571, June 5, 1978, 78-1 CPD 412.

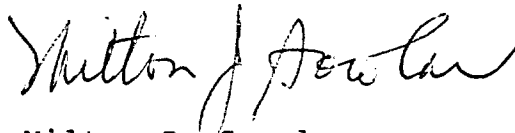
Counsel for the protester also asserts that because a supplemental report was prepared, a significant issue of procurement policy was involved and the protests should be considered pursuant to 4 C.F.R. § 20.2(c) (1978). The significant issue exception to our timeliness rules is limited to issues which are of widespread interest to the procurement community and is

B-193038  
B-192992

3

exercised sparingly so that timeliness standards do not become meaningless. General Automatic Corporation, B-190216, January 5, 1978, 78-1 CPD 8. We see nothing in this case to warrant invoking the exception.

Based on the above discussion, the protests were untimely filed and will not be considered on the merits.

A handwritten signature in cursive script, reading "Milton J. Socolar". The signature is written in dark ink and is positioned above the printed name and title.

Milton J. Socolar  
General Counsel